

संसाधारण EXTRAORDINARY भाग II—इण्ड 2 PART II—Section 2 डाधिकार सं प्रकाशित PUBLISHED BY AUTHORITY

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इस भाग में भिन्न पृष्ठ संख्या वी जाती है जिससे कि वह कुछा संकल्प के कुप में रचा जा सके। Separate paging is given to this Part in order that it may be filed so a separate compliation.

LOK SABHA

The following Bills were introduced in Lok Sabha on the 5th May, 1986:—

BILL No. 52 OF 1986

A Bill further to amend the Apprentices Act, 1961.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

- 1. (1) This Act may be called the Apprentices (Amendment) Act, 1986.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States.

commencement.

Amend-

ment of section 2.

title and

Short

52 of 1961.

- 2. In section 2 of the Apprentices Act, 1961 (hereinafter referred to as the principal Act), in section 2,—
 - (i) in clause (d), in sub-clause (1), for item (aa), the following items shall be substituted, namely:—
 - "(aa) the Regional Boards, or
 - (aaa) the practical training of graduate or technician apprentices or of technician (vocational) apprentices, or";
 - (ii) in clauses (e) and (k), after the word "technology" wherever it occurs, the words "or any vocational course" shall be inserted;
 - (iii) in clause (l), after the figures, letters and word "21st August, 1956", the words, brackets, letters and figures "and re-named

47 G of I

as the National Council for recational Training by the resolution of the Government of India in the Ministry of Labour (Directorate-General of Employment and Training), No. DGET 12 21 80-TC, dated the 30th September, 1981" shall be tracerted;

- (iv) after clause (p), the following clause shall be inserted, namely:—
 - '(pp) "Technician (vocational) apprentice" means an apprentice who holds or is undergoing training in order that he may hold a certificate in vocational course involving two years of study after the completion of the secondary stage of school education recognised by the All-India Council and undergoes apprenticeship training in any such subject field in any vocational course as may be prescribed;'.

Insertion of certain expressions.

- 3. In Chapter II of the principal Act,-
- (a) after the words "technician apprentice", wherever they occur, the words and brackets "technician (vocational) apprentice" shall be inserted;
- (b) after the words "technician apprentices", wherever they occur, the words and brackets "technician (vocational) apprentices" shall be inserted;
- (c) after the word "technology", wherever it occurs, the words "or vocational course" shall be inserted.

Amendment of section 3A. 4. In section 3A of the principal Act, in sub-section (1), after the words "Scheduled Tribes", the words "and where there is more than one designated trade in an establishment, such training places shall be reserved also on the basis of the total number of apprentices in all the designated trades in such establishment" shall be inserted.

Amendment of section 6. 5. In section 6 of the principal Act, in clauses (a) and (aa), after the words "trade tests", the words "or examinations" shall be inserted.

Amendment of section 21.

- 6. In section 21 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—
 - "(4) Every graduate or technician apprentice or technician (vocational) apprentice, who completes his apprenticeship training to the satisfaction of the concerned Regional Board, shall be granted a certificate of proficiency, by that Board."

STATEMENT OF OBJECTS AND REASONS

The Apprentices Act, 1961 provides for the regulation and control of training of apprentices.

- 2. The vocationalisation of higher secondary education has been attempted in this country as part of the efforts to provide meaningful education leading to suitable employment opportunities at the appropriate levels. It is also hoped that this would relieve the pressure on our higher education system. Vocationalisation implies education through work experience and hence adequate facilities are to be provided for the vocational stream to learn the practical aspects of the subject through field studies and to supplement the institutional learning. Providing apprenticeship facilities to the products of vocational stream assumes relevance in this context.
- 3. A pilot scheme called Special Vocational Education Training Scheme to provide "on the job training" to the product of the vocational stream was launched in 1983-84 under the supervision of the Regional Boards of Apprenticeship Training under the control of the then Ministry of Education. The scheme also provides for training of weaker sections, specially the Scheduled Castes and the Scheduled Tribes, minorities, physically handicapped and women.
- 4. In the light of the experience gained during the two years which indicates that the scheme has been welcomed by the States training agencies and the products of the vocational stream, it is proposed to amend the Apprentices Act. 1961 to provide training for the products of vocational stream by creating a separate category of apprentices called "the technician (vocational) apprentices" and administer the scheme through the Regional Boards of Apprenticeship Training who are implementing the apprenticeship training scheme for graduates and technician apprentices.
- 5. The object, therefore, is to provide "on the job training" to the products of the vocational stream so that adequate competence and skill required for various occupations are acquired which would lead to suitable employment or self-employment opportunity in organised industries, agriculture and other service sector of economic activity including agro and rural based industries.
- 6. The opportunity is also being availed of to amend section 3A of the Act so as to remove difficulties in the working of the scheme of reservations of training places for the Scheduled Castes and Scheduled Tribes.
 - 7. The Bill seeks to achieve the above objects.

NEW DELHI;

FINANCIAL MEMORANDUM

The amendments to the relevant sections of the Apprentices Act, 1961 provide for creating a separate category of apprentices viz. "technician (vocational) apprentice", with a view to providing apprenticeship training to the students passing out of the +2 vocational stream. The various amendments proposed include inter alia payment of stipend to the apprentices similar to those provided for the graduate and technician apprentices, the scheme for which, is being implemented by the Ministry of Human Resource Development (Department of Education) through the Regional Boards of Apprentices Training. There is also a proposal to increase the rates of stipend being paid to the apprentices in general and this would also apply to the new category of apprentices which is being proposed. The scheme envisages payment of a minimum rate of stipend 50 per cent. of which will be reimbursed by the Central Government to the training establishments as in the case of the present category of graduate and technician apprentices.

Under the present Special Vocational Educational Training (SVET) Scheme, about 25 subject fields have been identified and 3000 stipendiaries per annum are being offered training facilities. It is proposed under the amended Apprentices Act to provide initially apprenticeship training in these identified subject fields and later expand it in a phased manner progressively to other subject fields depending upon the experience in the implementation of the scheme. On this basis, it is estimated that about 4,000 trainees will be benefitting from the scheme in the first year of its operation. This number will progressively increase to around 12,000 by the end of the 7th Five Year Plan. The corresponding financial implication (reimbursement of Central Government share of stipend) would be as follows:—

Year	Number of trainees proposed	Amount reimbursible by Central Government
1986-87	4000	95 laklis
1987-88	6000	144 lakhs
1988-89	9000	216 lakhs
1939-90	12000	288 lakhs

(It is assumed that the rate of stipend would be Rs. 400 p.m. for a period of one year training, 50 per cent. of which will be reimbursed by the Government of India).

In case of increase in the vocational educational facilities in the 7th Plan, it might be necessary to increase the number of training places for the products of vocational stream. In that event, the financial estimate will also require to be modified to take care of the payment of stipend to the increased number of trainees of the vocational stream.

In order to implement the scheme effectively throughout the country, the Regional Boards of Apprenticeship Training as also the Technical Education Bureau of (the Ministry of Human Resource Development (Department of Education) will have to be sufficiently strengthened for creating additional posts to properly look after this additional responsibility. At present, the total non-plan administrative expenditure of the four Boards of Apprenticeship Training is about Rs. 28 lakhs per annum for the implementation of the present graduate and technician apprentices scheme. The introduction of the technician (vocational) apprentices scheme would involve an additional expenditure of about Rs. 10 lakhs per annum in the initial stage, rising up to about Rs. 15 lakhs per annum by the end of the Seventh Five Year Plan for the additional posts in the four Regional Boards and the Technical Education Bureau of the Ministry.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause (pp) sought to be inserted in section 2 of the Apprentices Act, 1961 by clause 2 of the Bill empowers the Central Government to prescribe the subject fields in vocational course in which the apprenticeship training shall have to be undergone by technician (vocational) apprentices.

2. Since the subject fields may have to undergo change from time to time, it would be convenient to delegate the power to the Central Government to prescribe by rules such subject fields. The delegation of legislative power is thus of a normal and routine character.

BILL NO. 53 OF 1986

A Bill to provide for the acquisition and transfer of certain textile undertakings of the Swadeshi Cotton Mills Company Limited, with a view to securing the proper management of such undertakings so as to subserve the interests of the general public by ensuring the continued manufacture, production and distribution of different varieties of cloth and yarn and thereby to give effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of article 39 of the Constitution and for matters connected therewith or incidental thereto.

WHEREAS the Swadeshi Cotton Mills Company Limited has, through its six textile undertakings, been engaged in the manufacture and production of different varieties of cloth and yarn;

And whereas the management of the said textile undertakings was taken over by the Central Government under section 18AA of the Industries (Development and Regulation) Act, 1951;

And whereas large sums of money have been invested with a view to making the said textile undertakings viable;

And whereas further investment of very large sums of money is necessary for the purpose of securing the optimum utilisation of the available facilities for the manufacture, production and distribution of cloth and yarn by the said textile undertakings of the Company;

65 of 1951.

And whereas such investment is also necessary for securing the continued employment of the workmen employed in the said textile undertakings;

And whereas it is necessary in the public interest to acquire the said textile undertakings of the Swadeshi Cotton Mills Company Limited to ensure that the interests of the general public are served by the continuance by the said undertakings of the Company of the manufacture, production and distribution of different varieties of cloth and yarn which are vital to the needs of the country;

AND WHEREAS such acquisition is for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of article 39 of the Constitution;

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

- 1. (1) This Act may be called the Swadeshi Cotton Mills Company Limited (Acquisition and Transfer of Undertakings) Ordinance, Act, 1986.
- (2) The provisions of sections 27 and 28 shall come into force at once, and the remaining provisions of this Act, shall be deemed to have come into force on the 1st day of April. 1985.

Definitions.

- 2. In this Act, unless the context otherwise requires,—
 - (a) "appointed day" means the 1st day of April, 1985;
- (b) "Commissioner" means the Commissioner of Payments appointed under section 15;
- (c) "Company" means the Swadeshi Cotton Mills Company Limited, Kanpur, a company within the meaning of the Companies Act, 1956, and having its registered office at Swadeshi House, Civil Lines, Kanpur, in the State of Uttar Pradesh;

1 of 1956.

(d) "date of taking over" means the date on which the management of the textile undertakings of the Company was taken over by the Central Government by virtue of the order of the Government of India in the late Ministry of Industrial Development No. S.O. 265 (E) dated the 13th April, 1978, made under clause (a) of sub-section (1) of section 18AA of the Industries (Development and Regulation) Act, 1951;

65 of 1951.

(e) "National Textile Corporation" means the National Textile Corporation Limited, a company formed and registered under the Companies Act, 1956;

1 of 1956.

5 of 1986.

- (f) "notification" means a notification published in the Official Gazette;
- (g) "Ordinance" means the Swadeshi Cotton Mills Company Limited (Acquisition and Transfer of Undertakings) Ordinance, 1986;

his

(h) "prescribed" means prescribed by gules made under this Act;

- (i) "specified date", in relation to any provision of this Act, means such date as the Central Government may, by notification in the Official Gazette and in the newspapers circulating in the locality in which the registered office of the Company is situated. specify for the purposes of that provision and different dates may be specified for different provisions of this Act:
- (j) "Subsidiary Textile Corporation" means a textile corporation formed by the National Textile Corporation as its subsidiary:
- (k) "textile undertakings" means the six textile undertakings of the Company specified below: -
 - (i) the Swadeshi Cotton Mills, Kanpur:
 - (ii) the Swadeshi Cotton Mills, Pondicherry;
 - (iii) the Swadeshi Cotton Mills, Naini;
 - (iv) the Swadeshi Cotton Mills, Maunath Bhanjan;
 - (v) the Udaipur Cotton Mills, Udaipur;
 - (vi) the Rae Bareli Textile Mills, Rae Bareli;

(1) words and expressions used herein and not defined but defined in the Companies Act, 1956, shall have the meanings respectively assigned to them in that Act.

CHAPTER II

ACQUISITION AND TRANSFER OF THE TEXTILE UNDERTAKINGS

3. (1) On the appointed day, every textile undertaking and the right, Transfer title and interest of the Company in relation to every such textile undertaking shall, by virtue of this Act, stand transferred to, and shall yest in, the Central Government.

and vesting of the textile under. takings.

effect of

vesting.

- (2) Every such textile undertaking which stands vested in the Central Government by virtue of sub-sectoin (1) shall, immediately after 't has so vested, stand transferred to, and vested in, the National Textile Corporation.
- 4. (1) The textile undertakings referred to in section 3 shall be deemed to include all assets, rights, lease-holds, powers authorities and privileges and all property, movable and immovable including lands, buildings, workshops, stores, instruments, machinery and equipment, cash balances, cash on hand, reserve funds investments and book debts pertraining to the textile undertakings and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, possession, power or control of the Company in relation to the said undertakings, whether within or outside India, and all books of account, registers and all other documents of whatever nature relating thereto.
- (2) All property as aforesaid which have vested in the Central Government under sub-section (1) of section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other incumbrances affecting it, and any attachment,

1 of 1956.

injunction or decree or order of any court or other authority restricting the use of such property in any manner shall be deemed to have been withdrawn.

- (3) Where any licence or other instrument had been granted at any time before the appointed day to the Company in relation to the textile undertakings by the Central Government or a State Government or any local authority, the National Textile Corporation shall, on and from such day, be deemed to be substituted in such licence or other instrument in place of the Company as if such licence or other instrument had been granted to the National Textile Corporation and that Corporation shall hold it for the remainder of the period for which the Company to which it was granted would have held it under the terms thereof.
- (4) Every mortgagee of any property which has vested under this Act, in the Central Government and every person holding any charge, lien or other interest in, or in relation to, any such property shall give, within such time and in such manner as may be prescribed, an intimation to the Commissioner of such mortgage, charge, lien or other interest.
- (5) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (2) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim, in accordance with his rights and interests, payment of the mortgage money or other dues, in whole or in part, out of the amounts specified in section 8 and section 9, but no such mortgage, charge, lien or other interest shall be enforceable against any property which has vested in the Central Government.
- (6) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any property which has vested in the Central Government, under section 3, instituted or preferred by or against the Company is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the textile undertakings or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the National Textile Corporation.

Company to be liable for cartain prior liabilities.

- 5. (1) Every liability of the Company in relation to the textile undertakings in respect of any period prior to the appointed day shall be the liability of the Company and shall be enforceable against it and not against the Central Government or the National Textile Corporation.
 - (2) For the removal of doubts, it is hereby declared that,—
 - (a) save as otherwise expressly provided in this section or in any other section of this Act, no liability of the Company in relation to the textile undertakings, in respect of any period prior to the appointed day shall be enforceable against the Central Government or the National Textile Corporation;
 - (b) no award, decree or order of any court, tribunal or other authority in relation to any textile undertaking, passed after the appointed day, in respect of any matter, claim or dispute which arose before that day shall be enforceable against the Central Government or the National Textile Corporation;

Transfer

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- (c) no liability incurred by the Company in relation to textile undertaking before the appointed day, for the contravention of any provision of law for the time being in force, shall be enforceable against the Central Government or the National Textile Corporation.
- 6. (1) The National Textile Corporation may, by order in writing, transfer any of the textile undertakings or part thereof to a Subsidiary Textile Corporation and any such transfer shall be subject to such terms and conditions as may be specified in the said order.
- (2) The Subsidiary Textile Corporation shall on and from the date of such transfer, be deemed to be substituted in the licence or other instrument referred to in sub-section (3) of section 4 in place of the National Textile Corporation as if such licence or other instrument had been granted to the Subsidiary Textile Corporation, and shall hold such licence or other instrument for the remainder of the period for which the National Textile Corporation would have held such licence or other instrument.
- (3) Save as otherwise expressly provided in this Act, references in this Act to the National Textile Corporation shall, in respect of any textile undertaking or part thereof which is transferred to a Subsidiary Textile Corporation, be construed as references to the Subsidiary Textile Corporation.
- An amount equal to the value of the assets of the textile undertakings transferred to, and vested in the National Textile Corporation under sub-section (2) of section 3 shall be deemed to be the contribution made by the Central Government to the equity capital of the National Textile Corporation; and for the contribution so made, the National Textile Corporation shall issue (if necessary after amending its memorandum and articles of association) to the Central Government paid up shares, in its equity capital having a face value equal to the amount specified in section 8.

Shares to be issued National Textile Corporation for value of assets transferred to it

CHAPTER III

PAYMENT OF AMOUNTS

For the transfer to, and vesting in, the Central Government, under Payment section 3, of the textile undertakings of the Company, and the right, title of and interest of the Company in relation to such undertakings, there shall be given by the Central Government to the Company in cash and in the manner specified in Chapter VI, an amount of rupees twenty-four crores and thirty-two lakhs.

amount.

by the Central Government.

9. (1) For the deprivation of the Company of the management of the Payment textile undertakings, there shall be given by the Central Government to the Company, in cash, an amount calculated at the rate of rupees ten thousand per annum for the period commencing on the date on which the management of the textile undertakings of the Company was taken over

further amounts. in pursuance of the order made by the Central Government under section 18AA of the Industries (Development and Regulation) Act, 1951 and 65 of 1951, ending on the appointed day.

- (2) In consideration of the retrospective operation of the provisions of sections 3 and 4, there shall also be given by the Central Government to the Company, in cash, an amount calculated at the rate of rupees ten thousand per annum for the period commencing on the appointed day and ending on the date on which the Ordinance was promulgated.
- (3) The amount specified in section 8 and the amounts determined in accordance with the provisions of sub-sections (1) and (2) shall carry simple interest at the rate of four per cent. per annum for the period commencing on the appointed day and ending on the date on which payment of such amounts is made by the Central Government to the Commissioner.
- (4) The amounts determined in accordance with the provisions of subsections (1), (2) and (3) shall be given by the Central Government to the Company in addition to the amount specified in section 8.
- (5) For the removal of doubts, it is hereby declared that the liabilities of the Company in relation to the textile undertakings, which have vested in the Central Government under section 3 shall be discharged from the amount referred to in section 8 and also from the amounts determined under sub-sections (1), (2) and (3), in accordance with the rights and interests of the creditors of the Company.

CHAPTER IV

MANAGEMENT, ETC., OF THE TEXTILE UNDERTAKINGS

Management, etc., of the textile undertakings.

- 10. The National Textile Corporation or any person which that Corporation may, by order in writing, specify, shall be entitled to exercise the powers of general superintendence, direction, control and management of the affairs and business of a textile undertaking, the right, title and interest of the Company in relation to which have vested in that Corporation under sub-section (2) of section 3, and do all such things as the Company is authorised to exercise and do.
- Duty of persons in charge of management of the textile undertekings to deliver all assets.
- 11. On the vesting of a textile undertaking in the National Textile Corporation, all persons in charge of the management of a textile undertaking immediately before such vesting shall be bound to deliver to the National Textile Corporation, all assets, books of account, registers or other documents in their custody relating to the textile undertaking.

CHAPTER V

PROVISIONS RELATING TO EMPLOYEES OF THE TEXTILE UNDERTAKINGS

12. (1) Every person who has been, immediately before the appointed day, employed by the Company in relation to a textile undertaking, shall become, on and from the appointed day, an employee of the National Textile Corporation and shall hold Office or service in that Corporation with the same rights and privileges as to pension, gratuity and other like matters as would have been admissible to him it the rights in relation to such textile undertaking had not been transferred to, and vested in, the National Textile Corporation, and shall continue to do so unless and until his employment in that Corporation is duly terminated or until his remuneration, terms and conditions of employment are duly altered by that Corporation.

Continuance of employees of the textile undertakings.

14 of 1974.

- (2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other person employed in a textile undertaking to the National Textile Corporation shall not entitle such officer or other employee to any compensation under this Act, or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.
- 13. (1) Where the Company has established a provident fund, superannuation, welfare or other fund for the benefit of the persons employed in a textile undertaking, the moneys relatable to the officers and other funds. employees whose services have been transferred by or under this Act to the National Textile Corporation shall, out of the moneys standing, on the appointed day, to the credit of such provident fund, superannuation, welfare or other fund, stand transferred to, and vest in, the National Textile Corporation.

Provident and other

- (2) The moneys which stand transferred under sub-section (1) to the National Textile Corporation, shall be dealt with by that Corporation in such manner as may be prescribed.
- 14. Where any textile undertaking or any part thereof is transferred this Act to a Subsidiary Textile Corporation, every person referred to in section 12 shall, on and from the date of such transfer, become an employee of the Subsidiary Textile Corporation, and the provisions of sections 12 and 13 shall apply to such employee of the National Textile Corporation as if references in the said sections to the National Textile Corporation were references to the Subsidiary Textile Corporation.

Transfer of employees to a Subsidiary Textile Corpora-

CHAPTER VI

COMMISSIONER OF PAYMENTS

15. (1) The Central Government shall, for the purpose of disbursing the amounts payable under sections 8 and 9 to the Company, by notification, appoint a Commissioner of Payments.

Appointment of Commissioner of

(2) The Central Government may appoint such other persons at it Payments. may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons also to exercise all or any of the powers exercisable by him under this Act and different persons may be authorised to exercise different powers.

- (3) Any person authorised by the Commissioner to exercise any of the powers exercisable by the Commissioner may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Act and not by way of authorisation.
- (4) The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the Consolidated Fund of India.

Payment by the Central Government to the Commissioner

- 16. (1) The Central Government shall, within thirty days from the specified date, pay in cash to the Commissioner, for payment to the Company, an amount equal to the amount specified in section 8 and the amounts payable to the Company under section 9.
- (2) A deposit account shall be opened by the Central Government in favour of the Commissioner in the Public Account of India, and every amount paid under this Ordinance to the Commissioner shall be deposited by him to the credit of the said deposit account, and the said deposit account shall be operated by the Commissioner.
- (3) The interests accruing on the amount standing to the credit of the deposit account referred to in sub-section (2) shall ensure to the benefit of the Company.

Certain powers of the National Textile Corporation.

- 17. (1) The National Textile Corporation shall be entitled to receive, up to the specified date, to the exclusion of all other persons, any money due to a textile undertaking, realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day.
- (2) The National Textile Corporation may make a claim to the Commissioner with regard to every payment made by it as the authorised person in relation to a textile undertaking after the appointed day but before the date on which this Ordinance was promulgated for discharging any liability of the Company in relation to any period prior to the appointed day, and every such claim shall have priority, in accordance with the priorities attaching, under this Act, to the matter in relation to which such liability has been discharged by the authorised person.
- (3) Save as otherwise provided in this Act, the liabilities in relation to a textile undertaking in respect of any period prior to the appointed day which have not been discharged by the authorised person shall be the liabilities of the Company.

Explanation.—For the purposes of this section, "authorised person" means the person authorised to take over the management of any textile undertaking in pursuance of the order of the Government of India in the late Ministry of Industrial Development No. S.O. 265(E), dated the 13th April, 1978, issued under clause (a) of sub-section (1) of section 18AA of the Industries (Development and Regulation) Act, 1951.

18. Every person having a claim against the Company in relation to Claims the textile undertakings with regard to any of the matters specified in the Schedule shall prefer such claim before the Commissioner within thirty days from the specified date:

to the Commissioner.

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days, he may entertain the claim within a further period of thirty days, but not thereafter.

19. The claims arising out of matters sperified in the Schedule shall have priorities in accordance with the following principles, namely:-

Priorities αf claims.

- (a) Category I shall have precedence over all other categories and Category II shall have precedence over Category III and so on;
- (b) the claims specified in each of the categories shall rank equally and be paid in full, but, if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly; and
- (c) the question of discharging any liability with regard to matter specified in a lower category shall arise only if a surplus is left after meeting all the liabilities specified in the immediately higher category.
- 20. (1) On receipt of the claims made under section 18, the Commissioner shall arrange the claims in the order of prioritles specified in the Schedule and examine the same in accordance with such order.

Examination. of claims.

- (2) If on examination of the claims against the Company, the Commissioner is of the opinion that the amounts paid to him under this Act for payment to such Company are not sufficient to meet the liabilities specified in any lower category, he shall not be required to examine any claim in respect of such lower category.
- 21. (1) After examining the claims against the Company with reference to the priorities set out in the Schedule, the Commissioner shall fix a date on or before which every claimant shall file the proof of his claim.

rejection of claims.

- (2) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in one issue of any daily newspaper in the English language having circulation in the major part of the country and in one issue of any daily newspaper in such regional language as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the period specified in the advertisement.
 - (3) Every claimant who fails to file the proof of his claim within the period specified by the Commissioner shall be excluded from the disbursements made by the Commissioner.
 - (4) The Commissioner shall, after such invostigation as may, in his orinion be necessary and after giving the Company an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, by order, in writing admit or reject the claim in whole or in part.

(5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions, including the place or places at which he may hold his sittings and shall, for the purpose of making any investigation under this Act. have the same powers as are vested in a civil court under the Codeof Civil Procedure, 1908, while trying a suit, in respect of the following 5 of 1908. matters, namely:-

- (a) the summoning and enforcing the attendance of any witness and examining him on oath;
- (b) the discovery and production of any document or other material object producible as evidence:
 - (c) the reception of evidence on affidavit;
- (d) the issuing of any commission for the examination of witnesses.
- (6) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code, and the Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860,

2 of 1974.

(7) A claimant who is dissatisfied with the decision of the Commissioner, may prefer an appeal against the decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the Company is situated:

Provided that where a person who is a Judge of a High Court is appointed to be the Commissioner, such appeal shall lie to the High Court of Allahabad and such appeal shall be heard and disposed of by not less than two Judges of that High Court.

Disbursement of money by the Commissioner to claimants.

- 22. (1) After admitting a claim against the Company under Act, the amount due in respect of such claim shall be paid by the Commissioner to the person or persons to whom such amount is due and on such payment, the liability of the Company in respect of such claim shall stand discharged.
- (2) If, out of the moneys paid to him in relation to the textile undertakings, there is a balance left after meeting the liabilities as specified in the Schedule, the Commissioner shall disburse such balance to the Company.
- 23. Any money paid to the Commissioner which remains undisbursed or unclaimed on the date immediately preceding the date on which the office of the Commissioner is finally wound up, shall be transferred by the Commissioner before his office is finally wound up, to the general revenue account of the Central Government, but a claim to any money so transferred may be preferred to the Central Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, and the order, if any, for payment of the claim being treated as an order for the refund of revenue,

Undisbursed or unclaimed mount to be deposited with the general revenue rlaimed rejection

CHAPTER VII

MISCELLANEOUS

.24. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act, or in any decree or order of any court, tribunal or other authority.

Act riding effect.

25. (1) Where any libility of the Company in relation to any textile undertaking arising out of any item specified in Part I of the Schedule is not discharge fully by the Commissioner out of the paid to him under this Act, the Commissioner shall intimate in writing to the Central Government the extent of the liability which remains undischarged and that liabilty shall be assumed by the Central Government.

Assumption of liability.

- (2) The Central Government may, by order, direct the National Textile Corporation to take over the liability assumed by the Central Government under subsection (1), and receipt of such direction. shall be the duty of that Corporation to discharge such liability.
- 26. Every contract, entered into by the Company in relation to any textile undertaking which has vested in the National Textile Corporation under sub-section (2) of section 3, for any service, sale or supply and in force immediately before the appointed day, shall, on and from the expiry of a period of one hundred and eighty days from the date on ratified which the Ordinance was promulgated, cease to have effect unless such contract is before the expiry of that period, ratified in writing by the National Textile Corporation, and in ratifying such contract, the National Textile Corporation may make such alterations or modifications therein as it may think fit:

Contracte to cease to have effect unless bv National Textile Corporation.

Provided that the National Textile Corporation shall not omit to ra-. tify a contract and shall not make any alteration or modification in a contract-

- (a) unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of the textile undertaking concerned, and
- (b) except after giving the parties to the contract a reasonable opportunity of being heard and except after recording in writing its reasons for refusal to ratify the contract or for making any alteration or modification therein.

27. Any person who,-

Penalties.

- (a) having in his possession, custody or control any property forming part of any of the textile undertakings, wrongfully withholds such property from the National Textile Corporation; or
- (b) wrongfully obtains possession of, or retains any property forming part of any of the textile undertakings; or
- (c) wilfully withholds or fails to furnish to the National Textile Corporation or any person or body of persons specified by 'that

Corporation, any document or inventory relating to any of the textile undertakings which may be in his possession, custody or control; or

- (d) wilfully fails to deliver to the National Textile Corporation any inventory or property and assets forming part of any of the textile undertakings; or
- (e) fails to deliver to the National Textile Corporation or any person or body of persons specified by that Corporation, any assets, books of account, registers or other documents in his possession, custody or control relating to any of the textile undertakings; or
- (f) wrongfully removes or destroys any property forming part of any of the textile undertakings or prefers any claim under this Act which he knows or has reason to believe to be false or grossly inaccurate,

shall be punishable with imprisonment for a term which may extend to two years and with fine which may extend to ten thousand rupees.

Offences by Companies. 28. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diffence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act, has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) "company" means any body corporate and includes a firm or other association of individuals; and
 - (b) "director", in relation to a firm, means a partner in the firm.

Protection of action taken in good faith. 29. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of, or other person authorised by, that Government or the National Textile Corporation or any Subsidiary Textile Corporation or any officer of, or other person authorised by, such Corporation for anything which is in good faith done or intended to be done under this Act.

- (2) No suit or other legal proceeding shall lie against the Central Government or any officer of, or other person authorised by, that Government, or the National Textile Corporation or any Subsidiary Textile Corporation or any officer of, or other person authorised by, such Corporation for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.
- 39. (1) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Act, other than the powers conferred by this section and sections 31 and 32, may also be exercised by such person or persons as may be specified in the notification,

Delegation of powers.

- (2) Whenever any delegation of power is made under sub-section (1), the person to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.
- 31. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

Power to make rules

- (2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—
 - (a) the time within which, and the manner in which, an intimation referred to in sub-section (4) of section 4 shall be given:
 - (b) the manner in which the moneys in any provident fund or other fund, referred to in sub-section (2) of section 13 shall be dealt with;
 - (c) any other matter which is required to be, or may be, prescribed.
- (3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modification or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.
- **32.** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may by order, not inconsistent with the provisions of this Act, remove the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date on which the Ordinance was promulgated.

33. (1) The Swadeshi Cotton Mills Company Limited (Acquisition and Transfer of Undertakings) Ordinance, 1986, is hereby repealed.

Repeal and saving. (2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

[See sections 18, 19, 20(1), 21(1), 22(2) and 25(1)]

ORDER OF PRIORITIES FOR THE DISCHARGE OF LIABILITIES OF THE COMPANY

PART I

Category I

Employees' dues on account of unpaid salaries, wages, provident fund, Employees' State Insurance contribution or premiums relating to the Life Insurance Corporation of India and any other amounts due to employees in respect of any period whether before or after the date of taking over of the textile undertakings.

Category II

Secured loans obtained from nationalised banks and public financial institutions, other than the National Textue Corporation, in respect of any period whether before or after the date of taking over of the textile undertakings.

Category III

Any credit availed of for trade or manufacturing purposes during the post-take over management period.

Category IV

Revenue, taxes, cesses, rate or other dues to the Central Government, State Government and local authorities for the period after the date of taking over of the textile undertakings.

PART II

Category V

Revenue, taxes, cesses, rate or other dues to the Central Government, State Government and local authorities or State Electricity Boards for the pre-take over management period.

Category VI

Any credit availed of for trade or manufacturing purposes during the pre-take over management period.

STATEMENT OF OBJECTS AND REASONS

The management of six textile undertakings of the Swadeshi Cotton Mills Company Limited, Kanpur was taken over by the Central Government under section 18AA of the Industries (Development and Regulation) Act, 1951 on the 13th day of April, 1978. After such take over, large sums of money had been invested with a view to making the said undertakings viable and the liabilities of the undertakings were also frozen under an order issued under the Industries (Development and Regulation) Act. Further investment of money is also necessary for the purpose of securing the optimum utilisation of the available facilities by the said undertakings and for the continued employment of the workmen employed therein. In addition, the order freezing the liabilities of the undertakings was expiring on the 19th of April, 1986 and it could not be further extended beyond that date as the maximum period specifled under the Industries (Development and Regulation) Act was expiring on that date. The Swadeshi Cotton Mills Company Limited (Acquisition and Transfer of Undertakings) Ordinance, 1986 was therefore, promulgated by the President on the 19th April, 1986 to provide for the acquisition of all the six undertakings of the Company.

2. The Bill seeks to replace the aforesaid Ordinance.

New Delhi;

KHURSHED ALAM KHAN.

The 28th April, 1986.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 10/1/86-CSM, dated the 30th April, 1986 from Shri Khurshed Alam Khan, Minister of State of the Ministry of Textiles to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the Swadeshi Cotton Mills Company Limited (Acquisition and Transfer of Undertakings) Bill, 1986, recommends under clause (1) of article 117 of the Constitution of India, the introduction of the said Bill in Lok Sabha and also recommends under clause (3) of the same article 117; the consideration of the Bill by Lok Sabha.

FINANCIAL MEMORANDUM

Clause 8 of the Bill provides for the payment in cash and in the manner specified in Chapter VI of the Bill, by the Central Government to the Company, an amount equal to Rs. 24.32 crores for vesting in the Central Government the right, title and interest of the Company in relation to the textile undertakings of the Swadeshi Cotton Mills Company Limited.

- 2. Sub-clause (1) of clause 9 provides for the payment in cash of an amount calculated at the rate of Rs. 10,000 per annum to the Company for the deprivation of the Company of the management of its under takings, for the period commencing on the date on which the management of the textile undertakings of the Company was taken over in pursuance of the order made by the Central Government under the Industries (Development and Regulation) Act, 1951 and ending on the appointed day. It is estimated that the amount payable under the said subchause (1) of clause 9 is likely to be of the order of Rs. 70,000.
- 3. Sub-clause (2) of clause 9 provides for the payment in cash of an amount calculated at the rate of Rs. 10,000 per annum to the Company in consideration of the retrospective operation of the provisions of Clauses 3 and 4 of the Bill for the period commencing on the appointed day and ending on the date on which the Swadeshi Cotton Mills Company Limited (Acquisition and Transfer of Undertakings) Ordinance, 1986 was promulgated. It is estimated that the amount payable under sub-clause (2) of clause 9 is likely to be of the order of Rs. 10,000.
- 4. Sub-clause (3) of clause 9 provides for payment of simple interest on the amounts referred to in clause 8 and the amounts determined in accordance with the provisions of sub-clauses (1) and (2) of clause 9, at the rate of 4 per cent, per annum, for the period commencing on the appointed day and ending on the date on which payment of such amounts is made by the Central Government to the Commissioner. It is estimated that the interest payment in terms of the provisions of the said sub-clause is likely to be of the order of Rs. 8.11 lakhs per month.
- 5. Under clause 15 of the Bill a Commissioner of Payments shall be appointed by the Central Government with adequate staff to assist him for the purpose of discharging the functions indicated in Chapter VI of the Bill. The salaries and allowances of the Commissioner of Payments and his staff and expenditure on office and establishment will be defrayed out of the Consolidated Fund of India. The estimated expenditure on this account is likely to be of the order of Rs. 45,000 per month.
- 6. Under clause 25 of the Bill, the Central Government shall assume liabilities in relation to any textile undertaking arising out of any item specified in Part I of the Schedule to the Bill, which is not discharged fully by the Commissioner out of the amounts paid to him under the aforesaid provisions. The Commissioner of Payments is required to intimate in writing to the Central Government the extent of the liability

which remains undischarged and that liability shall be assumed by the Central Government. The exact quantum of the liability will be worked out by the Commissioner of Payments. It is, however, estimated that the total liability arising out of this clause is likely to be of the order of Rs. 15 crores.

- 7. Funds will also have to be provided to these undertakings for further investment necessary for the purpose of securing the optimum utilisation of the available facilities for the manufacture, production and distribution of cloth and yarn. It is estimated that the requirement of funds for this purpose is likely to be of the order of Rs. 37 crores.
- 8. During the initial period till these investments are completed, the undertakings are liable to incur losses which may have to be recouped by the Central Government. The exact quantum of loses cannot be estimated at present.
- 9. The Bill, if enacted, is not likely to involve any other recurring or non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 31 of the Bill empowers the Central Government to make rules to carry out the provisions of the Bill. Such rules may provide for matters, such as—

- (a) the time within which and the manner in which an intimation referred to in sub-clause (4) of clause 4 of the Bill shall be given;
- (b) the manner in which the moneys in any provident fund or other fund referred to in sub-clause (2) of clause 13 shall be dealt with.
- 2. The matters in respect of which rules may be made, are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of the legislative power is, therefore, of a normal character.

SUBHASH C. KASHYAP, Secretary-General.